REMARKS

Claims 1, 2, 5-16, 18-25, 49 and 50-51 were pending in the subject application. Applicant hereinabove has amended claim 1, 10, 16 and 50, and canceled claim 49 without prejudice. Accordingly, claims 1, 2, 5-16, 18-25, and 50-51 are presented for the Examiner's reconsideration.

As discussed with the Examiner during the June 18, 2003 telephone conference, the amendments herein should place the subject application in condition for allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Supplemental Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

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I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office on the date indicated above by facsimile and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attachment A

(Marked-up Claims to show amendments)

1. (3X Amended) An isolated human *ABC1* promoter that directs transcription of a heterologous coding sequence positioned downstream therefrom, wherein the promoter is selected from the group consisting of:

   (a) a promoter comprising nucleotides having the nucleotide sequence shown in SEQ ID NO: 1; ~~and~~

   (b) a promoter comprising nucleotides having the nucleotide sequence beginning at bp -469 and ending at bp +101 of SEQ ID NO: 1; and

   (c) a promoter comprising nucleotides having the nucleotide sequence beginning at bp -101 and ending at bp -32 of SEQ ID NO: 1.

2. The promoter of claim 1, wherein the promoter comprises the nucleotide sequence shown in SEQ ID NO: 1.

3. and 4. (previously canceled)

5. A recombinant expression construct effective in directing the transcription of a selected coding sequence which comprises:

   (a) a human *ABC1* promoter nucleotide sequence according to claim 1; and

   (b) a coding sequence operably linked to the promoter, whereby the coding sequence can be transcribed and translated in a host cell, and the promoter is heterologous to the coding sequence.

6. The recombinant expression construct of claim 5, wherein the coding sequence encodes a transporter polypeptide.

7. The recombinant expression construct of claim 6, wherein the transported polypeptide is ABCA1 transmembrane transporter protein.

8. The recombinant expression construct of claim 6, further comprising a nucleic acid segment encoding a transactivator protein that upregulates the ABC1 promoter.

9. The recombinant expression construct of claim 8, wherein the transactivator protein is the Liver-X-Receptor, the

Retinoid-X-Receptor, or a heterodimer of the Liver-X-Receptor and the Retinoid-X-Receptor.

10. (Amended) A host cell in cell culture comprising the recombinant expression construct of claim 5.

11. The host cell of claim 10, wherein the host cell is stably transformed with the recombinant expression construct.

12. The host cell of claim 10, wherein the host cell is a macrophage.

13. The host cell of claim 10, wherein the host cell is an immortalized cell.

14. The host cell of claim 10, wherein the cell is selected from the group consisting of RAW cells, African green monkey CV-1 cells and human 293 cells.

15. A method for expressing a foreign DNA in a host cell comprising: introducing into the host cell a gene transfer vector comprising the *ABC1* promoter according to claim 1 operably linked to the foreign DNA encoding a desired polypeptide or RNA, wherein said foreign DNA is expressed.

16. (Amended) The method of claim 15, wherein the promoter nucleotide sequence is identical to the sequence ~~represented by~~ set forth in SEQ ID NO: 1.

18. The method of claim 15, wherein the gene transfer vector encodes and expresses a reporter molecule.

19. The method of claim 18, wherein the reporter molecule is selected from the group consisting of beta-galactosidase, beta-glucuronidase, luciferase, chloramphenicol acetyltransferase, neomycin phosphotransferase, and guanine xanthine phosphoribosyltransferase.

20. The method of claim 15, wherein the introducing is carried out by adenovirus infection, liposome-mediated transfer, topical application to the cell, or microinjection.

21. The method of claim 15, further comprising introducing into the cell a gene transfer vector comprising a nucleic acid segment encoding a transactivator protein capable of upregulating the ABC1 promoter.

22. The method of claim 21, wherein the transactivator protein is the Liver-X-Receptor, the Retinoid-X-Receptor, or a heterodimer of the Liver-X-Receptor and the Retinoid-X-Receptor.

23. The method of claim 15, further comprising contacting the cell with a transactivator protein capable of upregulating the ABC1 promoter

24. The method of claim 23, wherein the transactivator protein is the Liver-X-Receptor, the Retinoid-X-Receptor, or a heterodimer of the Liver-X-Receptor and the Retinoid-X-Receptor.

25. The method of claim 24, further comprising contacting the cell with an agonist of the Liver-X-Receptor, of the Retinoid-X-Receptor, or of a heterodimer of the Liver-X-Receptor and the Retinoid-X-Receptor.

~~49. An isolated human *ABC1* gene comprising at least six exons and a promoter, wherein the promoter is selected from the group consisting of:~~

~~(a) a promoter comprising nucleotides having the nucleotide sequence shown in SEQ ID NO: 1; and~~

~~(b) a promoter comprising nucleotides having the nucleotide sequence beginning at bp -469 and ending at bp +101 of SEQ ID NO: 1; and~~

~~(c) a promoter comprising nucleotides having the nucleotide sequence that hybridizes to a sequence complementary to the promoter of (a) or (b) in a Southern hybridization reaction performed under stringent conditions.~~

50. (Amended) ~~An~~ The isolated promoter of claim 1, wherein the promoter comprises nucleotides having ~~nucleic acid that has~~ the nucleotide sequence beginning at bp -101 and ending at bp -32 of SEQ ID NO: 1.

51. A recombinant expression construct which comprises the nucleic acid according to claim 50.